

SENATE FINANCE, WAYS, AND MEANS COMMITTEE

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 414 House Bill No. 886

“by deleting all language following the enacting clause in its entirety and by substituting instead the following:”

AND FURTHER AMEND by adding the following new sections:

Section 1. Tennessee Code Annotated, Section 67-6-510, is amended by designating the existing language as subsection (a) and by adding the following new subsection:

(b) A motor vehicle dealer having previously titled and registered a motor vehicle in the dealership name for business use, and having paid the appropriate sales or use tax on such vehicle, shall be allowed a trade-in credit equal to the trade-in value of such vehicle against the purchase price of a new or used vehicle purchased or extracted from such dealer's inventory to be titled and registered as a replacement vehicle for business use and the sales or use tax shall be paid on the net difference.

The trade-in value authorized by this subsection shall be equal to the trade-in amount for the specific make and model as established by the NADA Official Used Car Guide, Southeastern Edition.

It is the legislative intent that a dealer may purchase a vehicle from his dealership's inventory and receive the same trade-in credit as if he purchased the vehicle from the inventory of another dealer.

SECTION 2. Tennessee Code Annotated, Section 67-3-503, is amended by

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substituting for the word "fuel," in the first line of subsection (a), the language "gasoline or undyed motor vehicle fuel."

SECTION 3. Tennessee Code Annotated, Section 67-3-802, is amended by deleting subsections (1), (9) and (18) thereof in their entirety.

SECTION 4. Tennessee Code Annotated, Section 67-3-802, is further amended by adding a new subsection as follows:

"Dyed Fuel" means any fuel which is dyed pursuant to federal law or regulations issued by either the United States Internal Revenue Service or the United States Environmental Protection Agency.

Tennessee Code Annotated, Section 67-3-802, is further amended by substituting the language "Undyed Fuel" for the first word in the first line of subsection (7) thereof.

Tennessee Code Annotated, Section 67-3-802, is further amended by substituting language for subsection (13) thereof as follows:

"Limited User" means a person who does not sell either dyed or undyed fuel but who consumes fuel which is both undyed and not subject to tax within this state for both licensed vehicles and other purposes;

Tennessee Code Annotated, Section 67-3-802, is further amended by substituting language for subsection (20) thereof as follows:

(20) "Sale" means the transfer or delivery of undyed fuel by any person for resale at a retail filling station for delivery into a motor vehicle or into a container which is

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equipped or designed to supply fuel directly into the fuel tank or any other tanks affixed to a motor vehicle or to a tank affixed to a trailer or semi-trailer designed to be pulled by a licensed motor vehicle. "Sale" also means the importation of undyed fuel by any person into this state, in such person's own conveyance or by common carrier or otherwise, for the purpose of consumption in a motor vehicle owned, leased or otherwise controlled by such person. "Sale" does not include any transfer or delivery of kerosene, even if undyed, placed either into a hand pump or computer type pump, that may have flexible hosing attached thereto, or into a pressure vessel container, which is not used in a motor vehicle on the public highways. "Sale" also does not include the transfer or delivery of kerosene, even if undyed, from one licensed seller to another licensed seller.

SECTION 5. Tennessee Code Annotated, Section 67-3-804, is amended by substituting for the language "either taxable or tax exempt fuel", in the second line of subsection (a) thereof, the language "dyed or undyed fuel".

SECTION 6. Tennessee Code Annotated, Section 67-3-807, is amended by deleting subsection (b) thereof in its entirety.

SECTION 7. Tennessee Code Annotated, Section 67-3-810, is amended by substituting for the word "fuel", wherever it occurs in subsection (a) thereof, the language "dyed or undyed fuel".

SECTION 8. Tennessee Code Annotated, Section 67-3-811, is amended by deleting the language thereof and by substituting therefor the following:

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The tax shall be computed and reported on the number of gallons of undyed fuel sold or used within the state during the immediately preceding month. Reports required under § 67-3-810 shall be accompanied by a payment of tax due for the preceding month.

SECTION 9. Tennessee Code Annotated, Section 67-3-812, is amended by deleting subsection (c) thereof.

SECTION 10. Tennessee Code Annotated, Section 67-3-814, is amended by deleting subsection (b) thereof.

SECTION 11. Tennessee Code Annotated, Section 67-3-817, is amended by substituting language for the second and third sentences of subsection (a) thereof as follows:

Any licensee who sells or delivers dyed fuel shall put on the face of the delivery document or invoice or both, if both are used, a notice that the product is dyed and is not for use in motor vehicles on the public highways. Any licensee delivering dyed fuel to consumers through pumps shall be required to prominently display on such pumps the language "Dyed Diesel Fuel - Nontaxable Use Only - Penalty for Taxable Use - Off Highway, Not Legal for Motor Vehicle Use." as presently required by the Internal Revenue Service and the Environmental Protection Agency; provided, however, that such display shall remain a requirement until the general assembly by statute changes such requirements notwithstanding either of such federal agencies altering or removing such requirement from its regulations. Failure to execute or maintain invoices or delivery documents, as provided herein, or failure to display the required language on delivery

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pumps shall result in the tax, which is imposed by this part on any such sales, to be owed by the seller or, in the alternative, if no tax is owed, the seller shall be liable for a penalty of one hundred dollars (\$100) for each month or portion thereof in which such failure continues. Any invoice shall reflect the amount of tax paid.

Tennessee Code Annotated, Section 67-3-817, is further amended by substituting language for subsections (b) and (c) as follows:

(b) The owner or operator of a retail filling station shall be required to maintain in a readily available place and to provide to the Commissioner upon request all purchase invoices for undyed fuel for a period of three (3) years from December 31 of the year in which the purchase occurred. Such owners or operators shall neither transfer nor deliver any dyed fuel to any other person nor shall such owners or operators purchase such dyed fuel for resale.

(c) Upon the failure of an owner or operator of a retail filling station to comply with the provisions set out in subsection (b) the Commissioner may:

(1) If the owner or operator is a holder of a permit under § 67-3- 103, revoke such permit; or

(2) Assess a penalty not to exceed one hundred dollars (\$100) against the owner or operator for each month or portion thereof in which the failure continues.

SECTION 12. Tennessee Code Annotated, Section 67-3-820, is deleted in its entirety.

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SECTION 13. Tennessee Code Annotated, Title 67, Chapter 3, Part 8, is amended by adding a new section thereto as follows:

Any person who sells or delivers dyed fuel when such person knows or has reason to know that the fuel will be used in a motor vehicle on the public highways or any person who uses dyed fuel in a motor vehicle on the public highways shall, in addition to any other penalty provided by law, be subject to a penalty of one thousand dollars (\$1,000) or ten dollars (\$10) per gallon of dyed fuel involved in such sale, delivery, or use, whichever amount is greater. Any such penalty shall be multiplied by the total number of separate instances in which penalty has been assessed against any one person.

Tennessee Code Annotated, Title 67, Chapter 3, Part 8, is further amended by adding another new section thereto as follows:

In addition to any general authority to investigate for violations of this chapter, the Commissioner is hereby authorized to inspect any vehicle using the public highways of this state to ascertain whether dyed fuel is being used to operate such vehicle on the highways of this state.

SECTION 14. Section 1 of this Act shall take effect upon becoming a law, the public welfare requiring it. The provisions of Sections 3, 6, 9, 10 and 12 of this act shall take effect January 1, 1998. The remaining sections of this act shall take effect January 1, 1996, the public welfare requiring it.

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